



Memorandum to Committee of Adjustment Members

Minor Variance Application: A-23/030/M 101 Nipissing Road

General Description of Application:

Under Section 45(1) of the *Planning Act*, the following minor variances to Zoning By-law 016-2014, as amended, has been requested to permit:

1. A maximum of 726 residential units, whereas a maximum of 677 residential uses are permitted (an increase of 49 units);
2. A minimum of 0.20 visitor parking spaces per unit, whereas a minimum of 0.23 visitor parking spaces per unit is required (a decrease of 0.03 visitor parking spaces per unit);
3. A maximum building height of 22 storeys (69.7 metres), whereas a maximum building height of 19 storeys (60.1 metres) is permitted (an increase of 3 storeys and 9.6 metres);
4. A maximum floor space index of 5.00, whereas a maximum floor space index of 4.73 is permitted (an increase of 0.27);
5. A maximum setback of 17.0 metres for floors above the fifth floor for Building B, whereas a maximum setback of 5.0 metres is permitted for floors above the fifth floor (an increase of 12.0 metres);
6. A maximum setback 7.5 metres for floors above the fifth floor for Building C, whereas a maximum setback of 5.0 metres is permitted (an increase of 2.5 metres);
7. A maximum height of a mechanical penthouse of 6.7 metres, whereas a maximum height of 6.0 metres is permitted (an increase of 0.7 metres); and
8. A rail corridor setback of 20 metres for dwelling units, whereas a rail corridor setback of 19.2 metres is permitted (an increase of 0.8 metres).

The subject property is known municipally as 101 Nipissing Road and is legally described as Part Lot 13, Concession 3 NS Trafalgar Survey. The lands are generally located on the north side of Nipissing Road directly south of the CP Rail tracks. Surrounding land uses include various commercial and industrial uses.

The applicant is proposing to construct a high density residential development that is comprised of three residential buildings connected by an underground parking structure. The buildings are proposed to include a total of 726 dwelling units and range in height from 17 to 22 storeys. The proposal is being reviewed concurrently through Site Plan application SP-33/19.

On August 23, 2021 Town of Milton Council passed Official Plan Amendment No. 68 (File LOPA-04/19) and Zoning By-law Amendment 075-2021 (File Z-02/19) to facilitate the subject development on the lands. Council subsequently approved the Milton Mobility Hub Study and accompanying Official Plan and Zoning By-law amendments on February

28, 2022. Many of the minor variances proposed are to better align the previously approved site specific Zoning By-law amendment with the outcomes of the Major Transit Station Area Official Plan Amendment and Zoning By-law Amendment.

Official Plan Designation (including any applicable Secondary Plan designations):

The subject property is designated as Central Business District (CBD) and Milton Go MTSA on Schedule B - Urban Land Use Plan. Schedule C - Central Business District Land Use Plan further identifies these lands as Urban Growth Centre. These designations permit a range of residential, commercial and office uses.

On February 28, 2022, the Town of Milton Council passed Local Official Plan Amendment #70 (LOPA 70) - this amendment implemented the policy direction informed by the Milton Go Major Transit Station Area (MTSA) Study. Policy updates included the addition of height and density limits, along with efforts to enhance the overall MTSA area, with the goal of supporting transit-friendly, complete communities.

On Schedule C.7.A1 CBD Central Business District Secondary Plan Height & Density Limits, implemented through LOPA 70, the subject lands are permitted to have buildings with a maximum height of 23 storeys and a maximum density of 5.0 FSI.

It is Staff's opinion that the proposal is in conformity with the Town of Milton Official Plan, as amended.

Zoning:

The subject lands are zoned as Urban Growth Centre - Mixed Use *298 (MGC-MU*298) under the Town of Milton Urban Zoning By-law 016-2014, as amended. This zone permits a range of commercial uses and high-density residential uses.

Relief from the Zoning By-law is required to accommodate minor changes to the building design as reviewed through the site plan control application, and to better align the proposed development with the Milton Go MTSA Study Zoning By-law amendment 089-2022.

Provisions within Zoning By-law Amendment 089-2022 are not automatically applied to these lands as the concurrent Site Plan Application was submitted prior to the date in which By-law 089-2022 came into force and effect. Section 1.11 of Zoning By-law 016-2014 includes a transition provision that permits a Site Plan Application submitted before the date in which new provisions take force and effect, to be considered under the Zoning By-law provisions that were in-effect on the date the application was submitted. Therefore, while the provisions within By-law 089-2022 are not applied to the site, the applicant is seeking relief with respect to variances no. 2 (Visitor Parking Rate), no. 3 (Maximum Building Height), and no. 4 (Floor Space Index) to bring the proposal in compliance with the current as-of-right permissions in By-law 089-2022.

The following variances are being requested:

Variance 1: Residential Units

Section 13.1.1.298 ii) a) states that the maximum number of residential units for all phases combined shall be 677 units. The applicant is proposed an increase in the maximum number of residential units to 726 units. An increase of 49 units.

Variance 2: Visitor Parking Rate

Section 13.1.1.298 ii) l) states that the minimum number of visitor parking spaces shall be 0.23 spaces per unit. The applicant is proposing to reduce the minimum number of visitor parking spaces to 0.20 parking spaces per unit. A reduction of 0.03 visitor parking spaces per unit.

Variance 3: Building Height

Section 13.1.1.298 ii) k) states that the maximum building height shall be 19 storeys (60.1 metres). The applicant is proposing to increase the maximum building height to 22 storeys (69.7 metres). An increase of 3 storeys and 9.6 metres.

Variance 4: Floor Space Index

Section 13.1.1.298 ii) b) states that the maximum floor space index shall be 4.73. The applicant is requesting a maximum floor space index of 5.00. An increase of 0.27.

Variance 5: Setback for Floors above the Fifth Floor -Building B

Section 13.1.1.298 ii) g) states that the maximum setback for floors above the fifth floor shall be 5.0 metres. The applicant is requesting an increase to the maximum setback to 17.0 metres for floors above the fifth floor on Building B. An increase of 12.0 metres.

Variance 6: Setback for Floors above the Fifth Floor -Building C

Section 13.1.1.298 ii) g) states that the maximum setback for floors above the fifth floor shall be 5.0 metres. The applicant is requesting an increase to the maximum setback to 7.5 metres for floors above the fifth floor on Building C. An increase of 0.7 metres.

Variance 7: Height of Mechanical Penthouse

Section 4.19.4.ii states that the maximum height of a mechanical penthouse shall be 6.0 metres. The applicant has requested an increased in the maximum height of a mechanical penthouse to 6.7 metres. An increase of 0.7 metres.

Variance 8: Rail Corridor Setback

Section 13.1.1.298 ii) d) states that the required rail corridor setback shall be 19.2 metres for dwelling units. The applicant is proposing to increase the rail corridor setback to 20.0 metres for residential units. An increase of 0.8 metres.

Consultation

Public Consultation

Notice for the hearing was provided pursuant to the *Planning Act* on, May 10, 2023. As of the writing of this report on, May 17, 2023, staff have not received any comments from members of the public.

Agency Consultation

No objections were filed with respect to the variance application from Town staff or external agencies. The following comments were received:

Development Review Comments:

The applicant has requested a minor variance to facilitate the construction of a high density residential development that is comprised of three residential buildings ranging in height from 17 to 22 storeys.

Variance 1: Residential Units

The applicant has proposed an increase to the maximum number of residential units from 677 units to 726 units. The proposed increase of 49 units is minor given the scale of the development, and the increase is appropriate given the sites location in a Major Transit Station Area. As such, Planning Staff offer no objection to the approval of this variance.

Variance 2: Visitor Parking Rate

The applicant has proposed a reduction in the minimum visitor parking rate from 0.23 visitor parking spaces per unit to 0.20 visitor parking spaces per unit. The reduction of 0.03 visitor parking spaces per unit is minor and aligns the visitor parking rate with the parking rate approved through the Milton Go Major Transit Station Area (MTSA) Study. Furthermore, through the site plan application, the applicant has provided a Transportation Impact Assessment and transportation staff had no concerns with the report. As such, Planning Staff offer no objection to the approval of this variance.

Variances 3, 4 & 7: Building Height and Floor Space Index, and Mechanical Penthouse

The applicant is proposing an increase to the maximum building height from 19 storeys (60.1 metres) to 22 storeys (69.7 metres), an increase in the maximum floor space index from 4.73 to 5.00, and an increase to the mechanical penthouse height from 6.0 metres to 6.7 metres.

The MTSA Official Plan Amendment and Zoning By-law Amendment permit a maximum building height of 23 storeys and 72 metres and a maximum density of 5.0 FSI on the subject lands. The proposed increase to the height and density are consistent with the maximum permitted height and density of the MTSA Study. Furthermore, the minor increase to the height of the mechanical penthouse will not exceed the maximum permitted height and will not significantly change the architectural design of the building. As such, Planning Staff offer no objection to the approval of these variances.

Variance 5 & 6: Setback for Floors above the Fifth Floor

The Zoning By-law requires a maximum front yard setback of 5.0 metres for floors above the fifth floor. At the time of the original Zoning By-law Amendment application, the intent of this provision was to capture the design of the building at the time and to ensure an appropriate street presence for the proposed buildings.

The applicant has requested to increase this setback to 17.0 metres for Building B and to 7.5 metres for Building C. While both of these buildings front onto Nipissing Road, they are both oriented differently. Building B has a north-south orientation and includes multiple stepbacks from the street, including stepbacks at the 5th floor, 7th floor, and 15th floor. Building C has an east-west orientation and additionally includes multiple stepbacks at the 5th floor, 7th floor, 16th floor, and 17th floor. Through the site plan review, urban design staff do not have any concerns with the proposed building form and stepbacks proposed. Despite the multiple stepbacks, the building maintains an appropriate street presence and urban design. As such, Planning Staff offer no objection to the approval of these variances.

Variance 8: Rail Corridor Setback

The applicant is requesting an increase to the rail corridor setback for dwelling units from 19.2 metres to 20.0 metres. The variance is required as the original Zoning By-law amendment did not establish that this was a minimum required setback.

The setback of 0.8 metres is minor in nature and does not negatively impact the proposed development. Through the original Zoning By-law Amendment and subsequent site plan application, the applicant has demonstrated alignment with the Federation of Canadian Municipalities Railway Guidelines for New Developments, including suitable protections and safeguard features. The increase in the rail setback will not change the protections required.

CP Rail and Metrolinx continue to be engaged through the site plan approval process, through which no concerns have been identified. As such, Planning Staff offer no objection to the approval of this variance.

Recommendation:

THAT the application for minor variance BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. That a building permit application be obtained within two (2) years from the date of this decision.
2. That the approval be subject to an expiry of two (2) years from the date of decision if the conditions are not met, if the proposed development does not proceed and/or a building permit is not secured.

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May 17, 2023